

A.G. Contract No: KR98-0889TRN
ADOT ECS File No: JPA 98-73
Project No.: RAM 600-8-528
Project: SR 202, Red Mountain Fwy
Section: Loop 101 to Country Club Dr.
TRACS: H4858 01 C
Budget Source Item No: 84398

**INTERGOVERNMENTAL AGREEMENT
LANDSCAPE MAINTENANCE**

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF MESA

THIS AGREEMENT is entered into 19th October, 2004 pursuant to Arizona Revised Statutes § 11-951 through § 11-954, as amended between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF MESA, ARIZONA, acting by and through its MAYOR and CITY COUNCIL, (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. It is to the mutual advantage of the State and the City to landscape certain areas within the right of way on SR-202L at the following location:

From SR 202L centerline roadway station 394+00 at Mesa Access Road to centerline roadway station 541+75 east of Country Club Dr., a total net distance of approximately 2.79 miles.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27162
Filed with the Secretary of State
Date Filed: 10/19/04
Janice K. Brewer
Secretary of State

By: Darryl D. Greenwald

II. SCOPE OF WORK

1. The State prepared plans and specifications for the landscaping and irrigation project and submitted them to the City for concurrence.

2. The City concurred with the plans. The project was constructed by the State using State funds, in accordance with the signed and sealed plans and specifications, as they have been concurred with by the City.

3. The State used color-coded irrigation pipe to indicate the presence of reclaimed water, as required by law, if the City elects to use effluent water at a later date. At this time, the City has elected to use potable water. The City furnished and installed necessary water services from potable water mains to the designated locations within the right of way and as shown on the plans. This work was done at the State's expense at the original time of construction. The City waived water development fees.

4. The City furnished all potable water for landscaping plant installation during the construction phase, and will furnish all potable water thereafter necessary to properly maintain the landscaping.

5. After construction, the State will maintain the landscaping and irrigation system including all testing, adjusting, repairing and operation of the irrigation system, generally within the control of access. The State will furnish all electrical power necessary to operate the irrigation system.

6. After construction, the City will maintain the irrigation system generally outside the control of access within the City limits as designated on the Maintenance Exhibit, attached hereto and made a part hereof, including all testing, adjusting, repairing and operation of the irrigation system, and shall furnish all electrical power necessary to operate those irrigation systems.

7. The City hereby agrees to maintain the landscaping in areas within the City limits as designated on the attached Maintenance Exhibit. Landscape maintenance shall consist of the care of all landscaping in accordance with accepted horticultural practices, keeping all areas free of weeds, undesirable grasses and litter, applying potable or effluent irrigation water, furnishing and applying insecticide/herbicide sprays (either mechanical or chemical means may be used) and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall become effective upon filing with the Secretary of State.

2. The terms, conditions and provisions of this Agreement shall remain in full force and effect for a period of five (5) years from the effective date, unless this Agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This Agreement will be automatically renewed for successive periods of five (5) years unless either party shall give notice in writing to the other not less than one (1) month nor more than three (3) months prior to the initial or renewed expiration date. Further, this Agreement may be terminated by the State at any time upon sixty (60) days written notice. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said landscaping.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

4. The provisions of Arizona Revised Statutes § 35-214 are applicable to this contract.

5. In the event of any controversy that may arise out of this Agreement, the parties hereby agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue Mail Drop 616E
Phoenix, AZ 85007
FAX: (602) 712 7424

City of Mesa
City Manager
P.O. Box 1466
Mesa, AZ. 85211-1466

7. Pursuant to Arizona Revised Statutes § 11-952, (D), attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF MESA

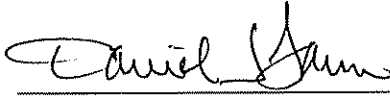
STATE OF ARIZONA

Department of Transportation

By


MICHAEL HUTCHINSON
City Manager

By

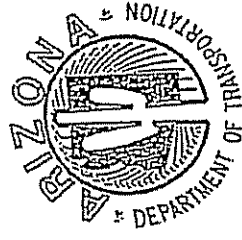

DANIEL S. LANCE, P. E.
Deputy State Engineer

ATTEST

By


BARBARA JONES
City Clerk





ARIZONA DEPARTMENT OF TRANSPORTATION
INTERMODAL TRANSPORTATION DIVISION
LANDSCAPE PLAN OF

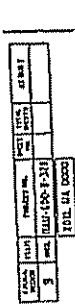
STATE HIGHWAY
RED MOUNTAIN FREEWAY LOOP 202

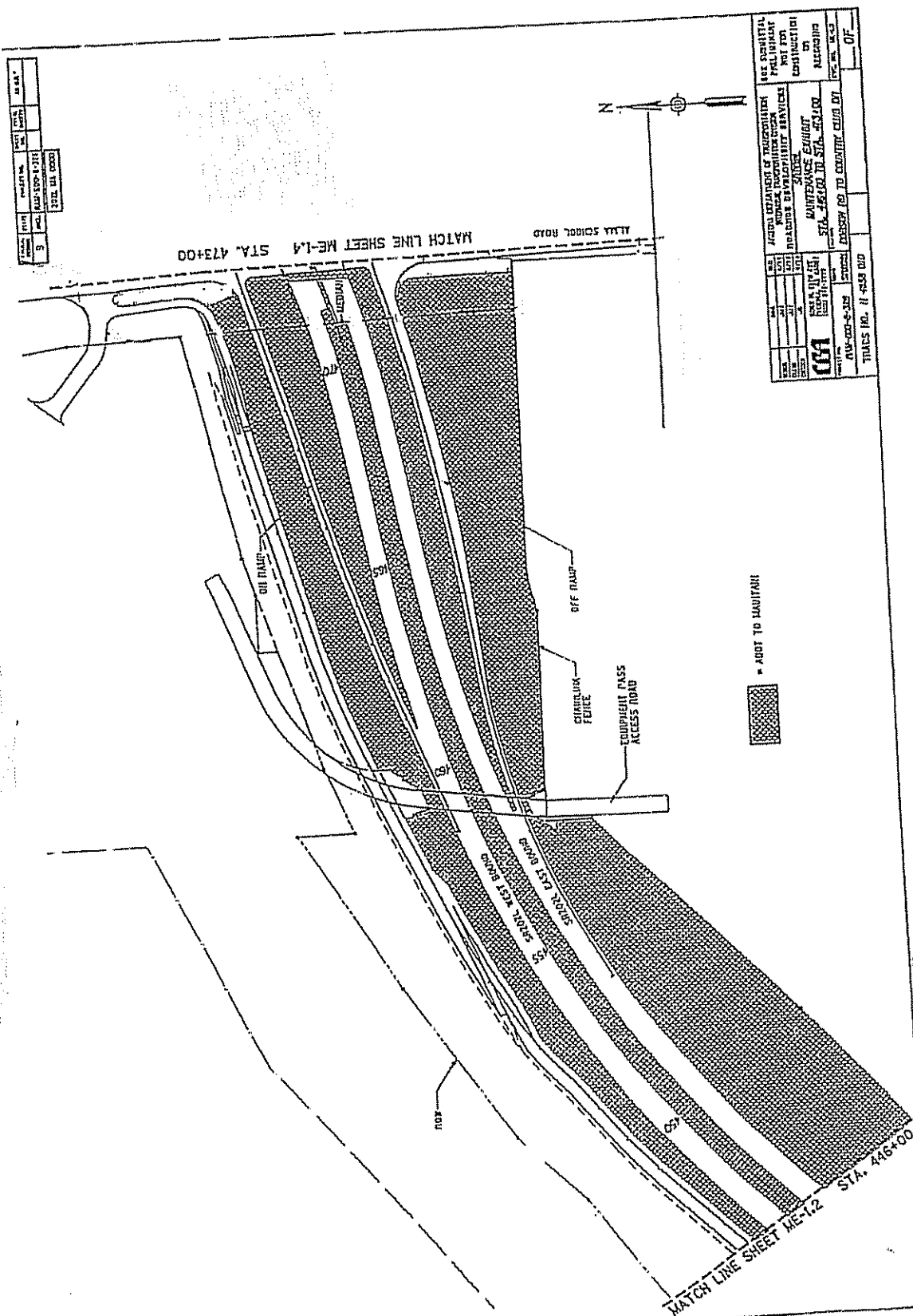
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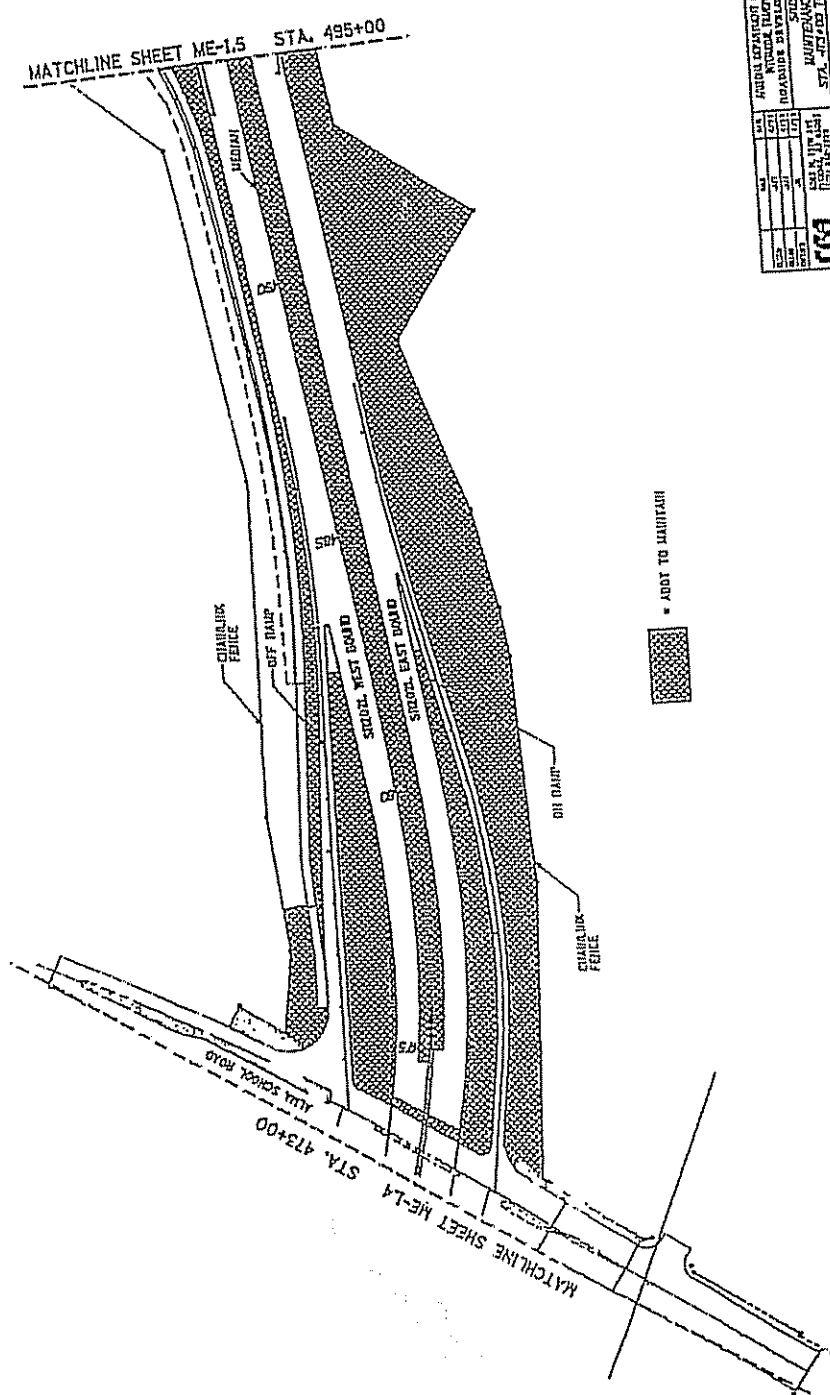
MAINTENANCE EXHIBIT

SR202L, DOBSON ROAD - COUNTRY CLUB DRIVE





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RESOLUTION NO. 8329

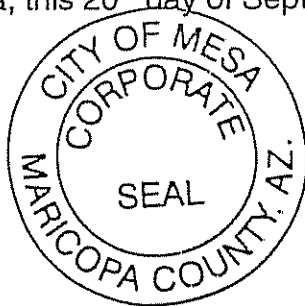
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE STATE OF ARIZONA DEPARTMENT OF TRANSPORTATION AND THE CITY OF MESA FOR THE LANDSCAPE MAINTENANCE ALONG THE RED MOUNTAIN FREEWAY FROM THE LOOP 101 TO COUNTRY CLUB DR

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA,
MARICOPA COUNTY, AS FOLLOWS:

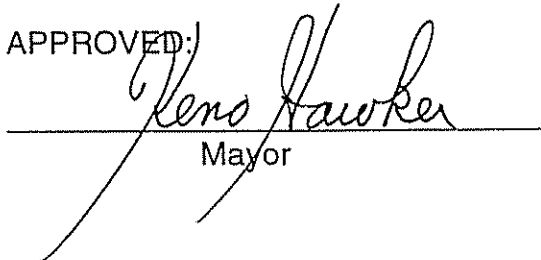
Section 1: That the agreement between the State of Arizona Department of Transportation and the City of Mesa for the Landscape Maintenance along the Red Mountain Freeway from the Loop 101 to Country Club Dr (ADOT JPA No. 98-73); is hereby approved.

Section 2: That the City Manager, Michael T. Hutchinson, or his designated representative, is authorized and directed to execute the agreement on behalf of the City of Mesa, and the City Clerk is authorized and directed to attest to the signature of the City Manager or his authorized designated representative thereon.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 20th day of September, 2004.

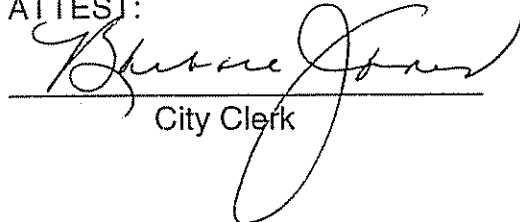


APPROVED:



Mayor

ATTEST:



City Clerk

APPROVAL OF THE CITY OF MESA ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF MESA, an agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement

DATED this 22 day of September, 2004.

Debin Spurrer

City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR98-0889TRN (**JPA 98-73**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: October 14, 2004

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan Davis", written over a horizontal line.

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section